PATENT COOPERATION TREATY

Translation

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

					
Applicant's or agent's file reference 15979/PCT ge		FOR FURTH	ER ACTION	See Form PCT/IPEA/416	
International ap	_	International 61	ing date (day/month/year)	Priority date (day/month/year)	
	2004/0049		International filing date (day/month/year) 10.05.2004	09.05.2003	
				03.03.2003	
International Pa	tent Classification	(IPC) or national classification	n and IPC		
	·				
Applicant					
EVOTEC	TECHNOLO	GIES GMBH			
		national preliminary examinations at the same state of the applicant according to the according		International Preliminary Examining Authority	
	REPORT consists	_ **	_	ng this cover sheet.	
		npanied by ANNEXES, comp		ing the sector sheet.	
_					
a. D		applicant and to the Internatio		sheets, as follows:	
		containing rectifications author		amended and are the basis for this report and/or cule 70.16 and Section 607 of the Administrative	
		*	s. but which this Authority co	onsiders contain an amendment that goes beyond	
	the dis	closure in the international a	oplication as filed, as indicate	ed in item 4 of Box No. I and the Supplemental	
_	Box.				
Ь.	(sent to the	International Bureau only) a to	otal of (indicate type and numb	ber of electronic carrier(s))	
				, containing a sequence listing and/or tables	
	related thereto	, in computer readable form	only, as indicated in the Supp	elemental Box Relating to Sequence Listing (see	
	Section 802 of	the Administrative Instructio	ns).		
4. This	report contains ind	ications relating to the followi	ng items:		
	Box No. I	Basis of the report			
	Box No. II	_			
		Priority			
	Box No. III	Non-establishment of opinion	on with regard to novelty, inve	entive step and industrial applicability	
	Box No. IV	Lack of unity of invention			
	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement				
	Box No. VI	Certain documents cited			
	Box No. VII	Certain defects in the intern	ational application		
	Box No. VIII	Certain observations on the			
Date of submi	ssion of the deman	d	Date of completion of	this report	
Name and mai	iling address of the	IPEA/EP	Authorized officer		
) ·		
Facsimile No.			Telephone No.		

International application No.
PCT/EP2004/004981

Box No. I	Basis of the report					
	I to the language, this report is based on the internation nder this item.	nal application in the language in v	which it was filed, unless otherwise			
	This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:					
	international search (Rule 12.3 and 23.1(b))					
	publication of the international application (Rule 12.4)	ı				
	international preliminary examination (Rule 55.2 and/o					
receiving C this report)	d to the elements of the international application, this Office in response to an invitation under Article 14 are the contractional application as originally filed/furnished					
the de	escription:					
pages	s <u>1</u> –33		as originally filed/furnished			
pages	s*	received by this Authority on				
pages	s*	received by this Authority on				
the cl	laims:					
nos.	2-18,20-35,37-41		as originally filed/furnished			
nos.*		as amended (togethe	er with any statement) under Article 19			
nos.*		<u></u>	07.03.2005 with letter			
nos.*	•	•				
	frawings:	·				
sheet			as originally filed/furnished			
sheet						
sheet		•				
\	quence listing and/or any related table(s) – see Supplem		isting.			
	amendments have resulted in the cancellation of:	0 2-445000 1	÷			
J. Line						
	the claims nos					
片	the claims, nos.					
	the sequence listing (specify):	 				
	any table(s) related to sequence listing (specify): s report has been established as if (some of) the ameno	iments annexed to this second	d listed below had not been made since			
	have been considered to go beyond the disclosure as f	iled, as indicated in the Suppleme	ental Box (Rule 70.2(c)).			
-	the description, pages					
	the claims, nos.					
	.1 1 1 1					
	the sequence listing (specify):					
	any table(s) related to sequence listing (specify):					
* If item 4 a	applies, some or all of those sheets may be marked "sup	perseded."				

International application No.

PCT/EP2004/004981

Box No. III	Non-establishment of opinion	with regard to novelty, inventive step and industrial applicability
The questio applicable h	ons whether the claimed invention appare not been examined in respect of:	pears to be novel, to involve an inventive step (to be non obvious), or to be industrially
	the entire international application	
\boxtimes	claims Nos. 1-35	
because	:	
	the said international application, or the relate to the following subject matter w	e said claims Nos. hich does not require an international preliminary examination (specify):
	the description, claims or drawings (in are so unclear that no meaningful opin	dicate particular elements below) or said claims Nos. 1–35 ion could be formed (specify):
	the claims, or said claims Nos. by the description that no meaningful	are so inadequately supported opinion could be formed.
	no international search report has beer	established for said claims Nos.
		nence listing does not comply with the standard provided for in Annex C of the Administrative
	the written form	has not been furnished does not comply with the standard
	the computer readable form	has not been furnished does not comply with the standard
	the tables related to the nucleotide ar technical requirements provided for in	nd/or amino acid sequence listing, if in computer readable form only, do not comply with the a Annex C-bis of the Administrative Instructions.
	See Supplemental Box for further deta	ails.

International application No.

PCT/EP2004/004981

Box No. IV Lack of unity of invention	
In response to the invitation to restrict or pay additional fees the applicant by restricted the claims. paid additional fees. paid additional fees under protest. neither restricted the claims nor paid additional fees.	has:
2. This Authority found that the requirement of unity of invention is not come the applicant to restrict or pay additional fees.	uplied with and chose, according to Rule 68.1, not to invite
This Authority considers that the requirement of unity of invention in accordance complied with. not complied with for the following reasons: See Supplemental Box.	e with Rules 13.1, 13.2 and 13.3 is:
	-Sab- intermedicant confictions
4. Consequently, this report has been established in respect of the following parts all parts. the parts relating to claims Nos.	ot the international application:

International application No.
PCT/EP2004/004981

Bo	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement				
1.	Statement				
	Novelty (N)	Claims	36-41	YES	
				NO	
	7 (70)				
	Inventive step (IS)		36-41		
		Claims		NO	
	Industrial applicability (IA)	Claims	36-41	YES	
			·		
2.	Citations and explanations (Rule				
	See Suppl	ement	al Box.		
ļ					
l					
ļ					
1					

International application No.
PCT/EP2004/004981

Supplemental Box

In case the space in any of the preceding boxes is not sufficient. Continuation of:

Box IV and Boxes III and V

Box IV:

The different (groups of) inventions are as follows:

Claims 1-35:

a fluidic microsystem with a holding arrangement, with no details concerning the way in which the holding device functions or the use thereof.

Claims 36-41:

an arrangement of electrodes for holding suspended particles in a channel.

For the following reasons, the above (groups of) inventions are not so linked as to form a single general inventive concept (PCT Rule 13.1).

The present application fails a priori to satisfy the requirement of unity of invention since two inventions are defined, said inventions not being linked, either by the essential features in combination or by the statement of the problem to be solved (problem-solution-approach), in such a way that they contain a single general inventive concept.

Supplemental Box

Moreover, among the different solutions in the different groups of inventions, there is no technical relationship that might define a single inventive concept.

In consequence, the present application fails to meet the requirement of PCT Rule 13.1.

Boxes III and V:

- The present report makes reference to the following documents:
 - D1: US 6 432 630 B1 (BLANKENSTEIN GERT)
 - 13 August 2002 (2002-08-13)
 - D2: US 2002/088712 A1 (MILES ROBIN R)
 - 11 July 2002 (2002-07-11).
- 2.1 Claims 1 and 19 fail to comply with the requirements of PCT Article 6 since the subject matter for which protection is claimed is not clearly defined. Said claims attempt to define their subject matter in terms of the result which is to be achieved (contactless fixing). In the present case, it is not admissible to draft the claims in this manner since it would appear that it is feasible to describe the subject matter of the application in more specific terms, that is to say to state the measures whereby the effect can be achieved. Claim 36 discloses an arrangement of

/...

International application No.
PCT/EP2004/004981

Supplemental Box

electrodes whereby contactless fixing is made possible. By combining the subject matter of claims 1 and 19 with that of claim 36 both the objection in respect of clarity (PCT Article 6) and also that in respect of unity of invention (PCT Rule 13.1) would be overcome.

2.2 Furthermore, the subject matter of claims 1 and 19 in combination with that of claim 36 would be considered novel and inventive (PCT Article 33), since the contactless fixing of a particle in a fluidic microsystem cannot be guaranteed in the light of D1 and D2 and the solution to the problem is likewise non-obvious from the prior art.